

UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
667937384	12/7/03/86	UNBECK	D600

CETUS CORPORATION
1400 FIFTY-THIRD ST.
EMERYVILLE, CA 94608

EXAMINER	
FOX, D	
ART UNIT	PAPER NUMBER
184	10

DATE MAILED:

41, 93, 99

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on 8/15/08 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892. 2. ☐ Notice re Patent Drawing, PTO-948.
3. ☒ Notice of Art Cited by Applicant, PTO-1449 4. ☐ Notice of Informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474 6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-23 are pending in the application.
- Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-23 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☒ The ☐ proposed drawing correction and/or the ☒ proposed additional or substitute sheet(s) of drawings, filed on 8/15/88 has ~~been~~ ☒ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections **MUST** be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other _____

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The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 184.

Receipt of the Form PTO 1449 is acknowledged.

The deposit rejection of the last office action has been withdrawn in view of the statement regarding the deposit filed 15 August 1988.

The text of those sections of Title 35 U. S. Code not included in this action can be found in a prior Office action.

Claims 1-23 are rejected under 35 U.S.C. 103 as being unpatentable over DeBlock et al taken with Zutra and Rangan et al., as stated for claims 1-22 in the last office action.

Applicant's arguments filed 15 August 1988, insofar as they pertain to the rejection above, have been fully considered but they are not deemed to be persuasive. Applicant urges that rejection of the claims under 35 USC 103 is improper since the cited references do not teach the use of hypocotyl explants which provide unexpectedly high transformability and regenerability. the Examiner maintains that Applicant has not demonstrated that cotton hypocotyls are unexpectedly

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advantageous. It appears that other explants such as cotyledon explants provide high levels of plant regeneration, as demonstrated by Davidonis et al and Firoozabady et al. Firoozabady et al also demonstrates a high recovery of regenerated plants from transformed cotyledon explants. It is noted that Applicant characterized the Rangan et al reference cited by the Examiner as teaching the use of a variety of regenerable explants including hypocotyls (see, e.g., page 3 of the instant specification, lines 13-18).

With respect to transformability, the Examiner maintains that hypocotyl inoculation is well known in the art, as taught by deFramond et al and Herrera-Estrella et al, both submitted by Applicant. The Examiner maintains that choice of explant for transformation would be the optimization of process parameters, given the teaching of cotton root and cotyledon inoculation taught by Zutra et al and Firoozabady et al., respectively.

Accordingly, the rejections are maintained as stated.

No claim is allowed.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a).

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Applicant is reminded of the extension of time policy set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to David Fox at telephone number 703-557-0664.

DTF
FOX/im

12/28/88


CHARLES F. WARREN
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 124

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